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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91237315
Party	Plaintiff American Marriage Ministries
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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AMERICAN MARRIAGE MINISTRIES,)	
)	
Opposer,)	Opposition No. 91237315
)	
v.)	
)	OPPOSER’S MOTION FOR LEAVE TO
		FILE A SURREPLY IN RESPONSE TO
		APPLICANT’S MOTION TO
		RE-OPEN DISCOVERY
UNIVERSAL LIFE CHURCH)	
MONASTERY STOREHOUSE, INC.)	
)	
Applicant.)	
_____)	

Opposer American Marriage Ministries (“AMM”) seeks leave from the Board to file a surreply in response to Applicant Universal Life Church Monastery Storehouse, Inc.’s (“ULC”) Reply in support of its Motion to Reopen Discovery. ULC’s reply brief introduces and relies upon new evidence not contained in the record or included in ULC’s initial motion. It also makes factually and materially inaccurate assertions about this new evidence. Its reply brief claims the new evidence “prov[es]” that its speculative theory that AMM conspired to create false examples of generic uses of “get ordained” “is true.” AMM seeks to offer a surreply and a supporting declaration solely for the purposes of responding to the evidence introduced for the first time in ULC’s reply brief. AMM would have made ULC’s errors clear in its opposition had ULC included this evidence in its opening brief.

Specifically, AMM seeks to respond to evidence and arguments about alleged AMM-sponsored content on third-party websites. ULC’s reply brief attaches a document not contained in the record attempting to show that AMM paid a third-party website, Offbeat Bride, to advertise AMM’s goods and services. Matesky Decl. II, Ex. A. ULC then leaps to the erroneous

conclusion that AMM paid to publish content on all the third-party websites that AMM cites in its motion for summary judgment (which, notably, do not include Offbeat Bride). *See* Reply p. 4 (“all available evidence demonstrates that AMM’s summary judgment motion cites to third party websites that AMM pays to publish sponsored content”). This assertion is inaccurate and would have been easily rebutted had ULC properly raised it earlier.

If given the opportunity, AMM will provide a declaration and evidence that despite ULC’s suggestion that AMM paid The Knot to use “get ordained” in a generic manner, *see* Reply p. 4, AMM never paid The Knot to use “get ordained.” Also, while AMM now pays for sponsored content on the website Offbeat Bride, the Offbeat Bride website used the phrase “get ordained” in connection with AMM’s services (of enabling people to get ordained) since at least 2011, long before it had a financial relationship with AMM—and long before ULC sought to register the phrase as a trademark. ULC erroneously conflates AMM’s quoting of third-party reviews on AMM’s own site with AMM speaking or controlling speech on third-party sites via sponsored content. *See* Reply p. 4. If permitted to file a supplemental declaration, AMM would attest that it did not pay for third parties to use “get ordained”; it merely quoted third-party reviews on AMM’s website as marketing and evidence of AMM’s skill in getting people ordained.

The Board previously allowed surreplies under very similar circumstances, as in its nonprecedential decision in *Fantasy Inc. v. DePond*, 2001 TTAB LEXIS 144, *3 (Trademark Trial & App. Bd. March 09, 2001), wherein the Board considered arguments in a surreply that responded to “assertions petitioner made, and evidence it submitted, for the first time in its reply brief.” AMM asks the Board to make the same decision here, given ULC’s improper inclusion of new assertions and evidence in its reply brief.

Dated: June 3, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2019, I served the foregoing Motion to Leave to File a Surreply on the Applicant by emailing to Applicant as follows:

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